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OCT - 2 2007

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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SBA

16 UNITED STATES OF AMERICA, the
17 PEOPLE OF THE STATE OF
CALIFORNIA, *ex rel.* CALIFORNIA
18 AIR RESOURCES BOARD, and NORTH
COAST UNIFIED AIR QUALITY
19 MANAGEMENT DISTRICT,

C 07 5067

20 CIV. NO.

21 CONSENT DECREE

22 v.
23 EVERGREEN PULP, INC.,
24 Defendant

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1 Concurrently with the lodging of this Consent Decree, the United States of America, on
2 behalf of the United States Environmental Protection Agency (“EPA”), the California Air
3 Resources Board (“ARB”) and the North Coast Unified Air Quality Management District
4 (“North Coast” or “District”) (collectively, the “Plaintiffs”) have filed a Complaint in this action
5 pursuant to Section 113 of the Clean Air Act (the “CAA”), 42 U.S.C. § 7413, California Health
6 and Safety Code § 42403, and North Coast Unified Air Quality Management District Rule 105
7 alleging that Defendant Evergreen Pulp, Inc. (“Defendant” or “Evergreen”) violated the CAA,
8 California state law and District regulations at its kraft pulp mill in Samoa, Humboldt County,
9 California (the “Facility”).

The Complaint alleges that Defendant has failed to comply with applicable CAA requirements, including, but not limited to, its operating permit issued by North Coast pursuant to Title V of the CAA, 42 U.S.C. § 7661a-7661f; the New Source Performance Standards applicable to Pulp and Paper Mills, 40 C.F.R. Part 60, Subpart BB; and the National Emissions Standards for Hazardous Air Pollutants (“NESHAPs”), General Provisions, and as applicable to Chemical Recovery Combustion Sources at Kraft Pulp Mills, 40 C.F.R. Part 63, Subparts A and MM, Part 4 of Division 26 of the California Health and Safety Code and the Rules and Regulations of the North Coast Unified Air Quality Management District.

18 Defendant denies any liability to the Plaintiffs arising out of the transactions or
19 occurrences alleged in the Complaint.

20 The Parties recognize, and the Court by entering this Consent Decree finds, that this
21 Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between
22 the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

23 NOW, THEREFORE, before the taking of any testimony, without the adjudication or
24 admission of any issue of fact or law except as provided in Section I (JURISDICTION AND
25 VENUE) below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED,
26 AND DECREED as follows:

I. JURISDICTION AND VENUE

- 28 1. This Court has jurisdiction over the subject matter of this action, pursuant to 28

1 U.S.C. §§ 1331, 1345, 1355, and 1367, and Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and
 2 over the Parties. Venue lies in this District pursuant to 42 U.S.C. § 7413(b), and 28 U.S.C. §§
 3 1391(b) and (c) and 1395(a), because the violations alleged in the Complaint occurred in, and
 4 Defendant conducts business in, this judicial District. For purposes of this Decree, or any action
 5 to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree or such
 6 action and over Defendant, and consents to venue in this judicial District.

7 2. Notice of the commencement of this action has been given to the State of
 8 California, as required by Section 113(b) of the CAA, 42 U.S. C. § 7413(b).

9 II. APPLICABILITY

10 3. The obligations of this Consent Decree apply to and are binding upon the United
 11 States, ARB and North Coast, and upon Defendant and any successors, assigns, or other entities
 12 or persons otherwise bound by law.

13 4. No transfer of ownership or operation of the Facility, in whole or in part, whether
 14 in compliance with this Paragraph or otherwise, shall relieve Defendant of its obligation to
 15 ensure that the terms of the Decree are implemented. Notwithstanding the foregoing, EPA,
 16 North Coast and ARB may agree to relieve Defendant of all or a portion of its obligation to
 17 comply with the terms of this Decree if: (1) the transferee agrees to undertake the obligations
 18 required by the Consent Decree and to be substituted for Defendant as a party under the Decree
 19 and be thus bound by the terms thereof, and (2) EPA, North Coast and ARB approve such
 20 transferee. EPA, North Coast and ARB may request information regarding the transferee's
 21 financial ability to assume such obligations and compliance history prior to granting such
 22 approval. EPA, North Coast and ARB may condition such approval upon terms they deem
 23 appropriate. At least thirty (30) days prior to such transfer, Defendant shall provide a copy of
 24 this Consent Decree to the proposed transferee and shall simultaneously provide written notice of
 25 the prospective transfer to EPA, the United States Department of Justice ("DOJ"), ARB and
 26 North Coast in accordance with Section XII (NOTICES) of this Decree. Any attempt to transfer
 27 ownership or operation of the Facility without complying with this Paragraph constitutes a
 28 violation of this Decree.

1 5. Defendant shall provide a copy of this Consent Decree to all officers, employees,
2 and agents whose duties might reasonably include compliance with any provision of this Decree,
3 as well as to any contractor retained to perform work required under this Consent Decree.
4 Defendant shall condition any such contract upon performance of the work in conformity with
5 the terms of this Consent Decree.

6 6. In any action to enforce this Consent Decree, Defendant shall not raise as a
7 defense the failure by any of its officers, directors, employees, agents or contractors to take any
8 actions necessary to comply with the provisions of this Consent Decree

III. CIVIL PENALTY

10 7. Within thirty (30) days after this Consent Decree is entered by this Court,
11 Defendant shall pay the sum of three hundred thousand dollars (\$300,000) as a civil penalty to
12 the United States. Payment shall be made by Electronic Funds Transfer (“EFT”) to the U.S.
13 Department of Justice in accordance with instructions to be provided to Defendant, following
14 lodging of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney’s Office for
15 the Northern District of California. At the time of payment, Defendant shall simultaneously send
16 written notice of payment (referencing DOJ case number 90-5-2-1-08786 and the case name and
17 civil action number of this case), and a copy of any transmittal documentation to EPA and DOJ
18 in accordance with Section XII (NOTICES) of this Decree

19 8. Within thirty (30) days after this Consent Decree is entered by this Court,
20 Defendant shall pay the sum of three hundred thousand dollars (\$300,000) as a civil penalty to
21 ARB. Such payment shall be made to the Air Resources Board Air Pollution Control Fund and
22 sent to the party designated to receive notice under Paragraph 63 below with a copy of the
23 transmittal of such payment to ARB counsel also designated in Paragraph 63.

24 9. Within thirty (30) days after this Consent Decree is entered by this Court,
25 Defendant shall pay the sum of three hundred thousand dollars (\$300,000) as a civil penalty to
26 North Coast. Payment shall be made by EFT to the North Coast Unified Air Quality
27 Management District in accordance with account and routing instructions that shall be provided
28 by North Coast to Defendant following lodging of the Consent Decree. At the time of payment,

1 Defendant shall simultaneously send written notice of payment and a copy of any transmittal
 2 documentation to North Coast in accordance with Section XII (NOTICES) of this Decree.

3 IV. COMPLIANCE REQUIREMENTS

4 10. Upon the date this Consent Decree is entered by this Court (the "Effective Date"),
 5 Evergreen shall be in compliance with 40 C.F.R. Part 63, Subparts A and MM for the recovery
 6 boiler and smelt dissolving tank ("SDT").

7 11. By April 26, 2007, Evergreen shall be in compliance with 40 C.F.R. Part 63,
 8 Subparts A and MM for the lime kiln.

9 12. Emission Limits for Smelt Dissolving Tank Exhaust Stack: Evergreen shall not
 10 exceed the following emission limits:

11 Particulate Matter: 0.20 pounds per ton of black liquor solids ("BLS") pursuant to
 12 North Coast State Implementation ("SIP") Regulation 1-4, Rule 420(d) and 40 C.F.R. §§
 13 60.282(a)(2) and 63.862(a)(i)(B).

14 13. Operational Requirements for Smelt Dissolving Tank Wet Scrubber and Spray
 15 Curtain: Evergreen shall maintain and operate the wet scrubber and spray curtain to control
 16 particulate emissions from the smelt dissolving tank in accordance with the requirements set
 17 forth in Paragraphs 28 through 34 of the revised Authority to Construct Permit No. 000-233-1
 18 issued by North Coast on January 20, 2006 (attached hereto as Appendix A). The obligation in
 19 this paragraph to maintain and operate the wet scrubber and spray curtain shall cease, however, if
 20 and when Evergreen commences to control particulate matter emissions from the smelt
 21 dissolving tank with new or different emissions control equipment, provided that Evergreen
 22 meets all local, state and federal requirements applicable to the modification.

23 14. Monitoring, Reporting and Recordkeeping for Smelt Dissolving Tank Emissions:
 24 Unless or until such Authority to Construct Permit is modified, terminated or revoked by North
 25 Coast, Evergreen shall comply with the monitoring, reporting and recordkeeping requirements of
 26 Paragraph 43 through 57 of the revised Authority to Construct Permit issued by North Coast on
 27 January 20, 2006 (Appendix A).

28 15. Alternative Monitoring Plan for Smelt Dissolving Tank: Upon the Effective Date

1 of this Consent Decree, Evergreen shall have submitted to EPA, North Coast and ARB an
2 alternative monitoring plan for the smelt dissolving tank spray curtain, pursuant to 40 C.F.R. §
3 63.864(e)(14).

4 16. ESP for Lime Kiln: As part of the consideration for this settlement, Evergreen
5 installed an electrostatic precipitator (“ESP”) to control particulate matter emissions from the
6 lime kiln. Evergreen commenced operation of the ESP on April 26, 2007, and conducted an
7 initial performance test of the ESP between May 22-28, 2007.

8 a. Evergreen shall demonstrate compliance with the particulate emission standard
9 using EPA Method 5 and CARB Method 5 pursuant to Paragraph 66(a)(i)-(iv) and (b)(i)-(iv) of
10 the Authority to Construct Permit # 000348-1 dated November 8, 2006 (“2006 ATC”) (Appendix
11 B hereto). Evergreen submitted a copy of the performance test results to EPA, North Coast, and
12 ARB within sixty (60) days following completion of the performance test.

13 b. Evergreen shall complete optimization testing by June 20, 2007, as set forth in
14 Paragraphs 59-62 of the 2006 ATC (Appendix B hereto). A copy of the report that describes the
15 results of the optimization testing was submitted to EPA, North Coast, and ARB within sixty
16 (60) days following completion of the testing.

17 17. Emission Limits for Lime Kiln Exhaust Stack: Beginning on April 26, 2007,
18 Evergreen shall not exceed any of the following emission limits:

19 a. Particulate Matter: 0.064 grains (“gr”) per dry standard cubic foot (“dscf”)
20 (corrected to 10% oxygen) pursuant to 40 C.F.R. § 63.862(a)(i)(c)).

21 b: Opacity:

22 i. 20 percent for 6 percent or more of the operating time within any
23 quarterly period pursuant to 40 C.F.R. § 63.864(k)(2);

24 ii. 40 percent for 3 minutes in any one hour pursuant to North Coast SIP
25 Regulation 1-4, Rule 410(a).

26 18. Continuous Opacity Monitoring System (“COMS”) for Lime Kiln Exhaust Stack:
27 Evergreen shall install, maintain and operate a COMS for the Lime Kiln Exhaust Stack according
28 to the following schedule:

1 a. Evergreen shall have completed installation and commence operation of the
2 COMS according to the requirements set forth in 40 C.F.R. §§ 63.6(h), 63.8 and 63.864(d)(3)
3 and (4) by May 16, 2007.

4 b. Evergreen shall certify that the COMS meets the requirements set forth in 40
5 C.F.R. §§ 63.6(h), 63.8 and 63.864(d)(3) and (4) by September 5, 2007.

6 c. Evergreen shall implement corrective action, as specified by the startup, shutdown
7 and malfunction plan required by Paragraph 21 below and 40 C.F.R. § 63.866(a) if the average of
8 ten consecutive 6-minute averages result in a measurement greater than 20 percent opacity.

9 19. Interim Requirements for the Lime Kiln:

10 a. Unless Evergreen has been authorized by North Coast before the Effective Date
11 to terminate such operations and maintenance, Evergreen shall, upon the Effective Date of this
12 Consent Decree, operate and maintain a HydroMist quench lance system to mitigate excess
13 particulate matter emissions from the lime kiln, as follows:

14 i. The total liquid flow rate through the lance header on the quench system
15 shall be operated at a minimum of 100 gallons per minute based on a
16 3-hour rolling average.

17 ii. Evergreen shall monitor the flow rate on the lance header at least once
18 every successive 15-second period. Evergreen shall record the averaged
19 flow rate through the lance header at least once every successive 15-
20 minute period.

21 iii. Upon the Effective Date of this Consent Decree, Evergreen shall have
22 submitted to EPA, North Coast and ARB an alternative monitoring plan
23 for the lime kiln HydroMist quench lance system, pursuant to 40 C.F.R.
24 § 63.864(e)(14).

25 iv. Upon the Effective Date of this Consent Decree, Evergreen will have
26 prepared and submitted to EPA, North Coast and ARB a proposed
27 inspection and maintenance plan for the quench lance system.

28 b. If not necessary to maintain compliance with applicable emission limits,

1 Evergreen shall request authorization from North Coast to terminate operation of the HydroMist
2 quench lance system. A copy of the request shall be sent to ARB and EPA. Such request shall
3 include a description of why the quench lance system is not needed to comply with the applicable
4 emission limits for the lime kiln. Use of the quench lance system shall not be terminated without
5 the affirmative approval of North Coast.

6 20. Record Retention: No later than the Effective Date of this Consent Decree,
7 Evergreen shall be in compliance with the record retention requirements of 40 C.F.R. §§
8 63.10(b)(1) and 63.866(c)(3) for records of pressure drop and scrubbing liquid flow rate at the
9 scrubber for the smelt dissolving tank, provided, however, that Evergreen shall not be required to
10 be in possession, on or after the Effective Date, of such records that were not retained before
11 August 31, 2006.

12 21. Startup, Shutdown and Malfunction Plan:

13 a. Upon the Effective Date of this Consent Decree, Evergreen shall have submitted
14 to EPA, North Coast, and ARB a startup, shutdown and malfunction plan (“SSM Plan”), as
15 required by 40 C.F.R. § 63.866(a), for the recovery boiler, the smelt dissolving tank and the lime
16 kiln. The submitted SSM Plan shall include an update to address the SDT spray curtain and the
17 Lime Kiln ESP and, as applicable, the HydroMist quench lance system.

18 b. Upon the Effective Date of this Consent Decree, Evergreen will have prepared
19 and submitted to EPA, North Coast and ARB an updated SSM Plan for the Lime Kiln ESP.

20 22. Recordkeeping and Reporting: Upon the Effective Date of this Consent Decree,
21 Evergreen shall comply with applicable recordkeeping and reporting requirements of 40 C.F.R.
22 Part 63, Subparts A and MM.

23 23. Continuous Emission Monitoring System (CEMS) and COMS Requirements:

24 a. No later than the Effective Date of this Consent Decree, Evergreen shall send a
25 notice to EPA, ARB and North Coast certifying that the operation of the recovery boiler and lime
26 kiln CEMS meets the requirements of 40 C.F.R. Part 60, Appendices B and F, including current
27 Quality Assurance (“QA”)/Quality Control (“QC”) plans, performance of quarterly gas audits,
28 COMS quarterly audits, calibration drift tests, and annual relative accuracy test audit. This

1 notification shall contain the certification statement required by Paragraph 27 of this Decree.

2 b. No later than the Effective Date of this Consent Decree, Evergreen shall send a
3 notice to EPA, ARB and North Coast certifying that a quality control program and plan has been
4 developed and implemented for the recovery boiler COMS that meets the requirements set forth
5 in 40 C.F.R. § 63.8(d). This notification shall contain the certification statement required by
6 Paragraph 27 of this Decree.

7 c. Evergreen shall certify that a quality control program and plan has been developed
8 and implemented for the lime kiln COMS that meets the requirements set forth in 40 C.F.R. §
9 63.8(d) by September 5, 2007.

10 24. Permits. When any compliance obligation under this Section requires Defendant
11 to obtain a federal, state, or local permit or approval, Defendant shall submit timely applications
12 and timely provide additional information as requested by the permitting authority to make its
13 applications complete, and take all other actions reasonably necessary to obtain all such permits
14 or approvals. Defendant may seek relief under the provisions of Section VII (FORCE
15 MAJEURE) of this Consent Decree for any delay in the performance of any such obligation
16 resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to
17 fulfill such obligation, if Defendant has submitted timely and complete applications and, in
18 accordance with the foregoing, has taken all other actions reasonably necessary to obtain all such
19 permits or approvals. This Paragraph shall not relieve Defendant of any obligation arising under
20 federal, state or local rule or regulation pertaining to permit approval. Nothing in this Decree
21 shall impair Evergreen's right to appeal a permit or approval, or permit or approval condition,
22 pursuant to applicable appeal procedures, except that Evergreen shall not challenge any condition
23 of a permit or approval that is also a provision of this Consent Decree. Subject to this limitation
24 the time for performance of provisions of this Consent Decree that require Evergreen to obtain a
25 federal, state, or local permit or approval shall be tolled during the pendency of an appeal.

26 V. REPORTING REQUIREMENTS

27 25. Defendant shall submit the following reports, commencing on the Effective Date
28 of this Consent Decree:

1 a. Within thirty (30) days after the end of each calendar-year quarter (*i.e.*,
2 by April 30, July 30, October 30, and January 30) after the Effective Date of this Consent Decree,
3 until termination of this Decree pursuant to Section XVI (TERMINATION), Defendant shall
4 submit to EPA, North Coast and ARB a quarterly report for the preceding quarter that shall
5 summarize: the status of any construction or compliance measures (e.g., permitting process,
6 anticipated start-up of operation, testing, etc.); completion of milestones; problems encountered
7 or anticipated, together with implemented or proposed solutions; and status of permit
8 applications. At the time a quarterly report is submitted to EPA and ARB, Defendant shall
9 submit to EPA and ARB a copy of all reports submitted to North Coast during the quarterly
10 period if these reports have not been previously provided to EPA and ARB.

11 b. Defendant shall notify EPA, North Coast and ARB in a written
12 report, within five (5) business days of the day Defendant first becomes aware of a violation of
13 any requirement of this Consent Decree, and shall identify its duration or, as applicable, likely
14 future duration, with an explanation of the violation's likely cause and of the remedial steps
15 taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be
16 fully explained at the time this report is due, Defendant shall so state in the report. Defendant
17 shall investigate the cause of the violation and shall then submit an amendment to the report,
18 including a full explanation of the cause of the violation, within thirty (30) days of the day
19 Defendant becomes aware of the cause of its violation. Nothing in this Paragraph relieves
20 Defendant of its obligation to provide the notice required by Section VII (FORCE MAJEURE) of
21 this Consent Decree.

22 26. All reports shall be submitted to the persons designated in
23 Section XII (NOTICES) of this Consent Decree.

24 27. Each report submitted by Defendant under this Section shall be signed by an
25 official of the submitting party and include the following certification:

26 I certify under penalty of law that I have examined and am familiar with the information
27 submitted in this document and all attachments and that this document and its attachments were
28 prepared either by me personally or under my direction or supervision in a manner designed to
ensure that qualified and knowledgeable personnel properly gather and present the information
contained therein. I further certify, based on my personal knowledge or on my inquiry of those

1 individuals immediately responsible for obtaining the information, that the information is true,
2 accurate and complete. I am aware that there are significant penalties for submitting false
3 information, including the possibility of fines and imprisonment for knowingly and willfully
submitting a materially false statement.

4 This certification requirement does not apply to emergency or similar notifications where
5 compliance would be impractical.

6 28. The reporting requirements of this Consent Decree do not relieve Defendant of
7 any reporting obligations required by the CAA or implementing regulations, or by any other
8 federal, state, or local law, regulation, permit, or other requirement.

9 VI. STIPULATED PENALTIES

10 29. If Defendant fails to pay the civil penalty required to be paid under Paragraph 7 of
11 this Decree when due, Defendant shall pay a stipulated penalty of five thousand dollars (\$5000)
12 per day for each day that the payment is late. All transmittal correspondence shall state that any
13 such payment is for stipulated penalties for late payment, and shall include the identifying
14 information set forth in Paragraph 7.

15 30. If Defendant fails to pay the civil penalty required to be paid under Paragraph 8 of
16 this Decree when due, Defendant shall pay a stipulated penalty of five thousand dollars (\$5000)
17 per day for each day that the payment is late. All transmittal correspondence shall state that any
18 such payment is for stipulated penalties for late payment, and shall include the identifying
19 information set forth in Paragraph 8.

20 31. If Defendant fails to pay the civil penalty required to be paid under Paragraph 9 of
21 this Decree when due, Defendant shall pay a stipulated penalty of five thousand dollars (\$5000)
22 per day for each day that the payment is late. All transmittal correspondence shall state that any
23 such payment is for stipulated penalties for late payment, and shall include the identifying
24 information set forth in Paragraph 9.

25 32. Defendant shall be liable for stipulated penalties to the United States, ARB
26 and North Coast to the extent that any or all of these Agencies joins in a written demand for and
27 is entitled to payment of stipulated penalties for violations of this Consent Decree as specified
28 below, unless excused under Section VII (FORCE MAJEURE). A violation includes failing to

1 perform any obligation required by the terms of this Decree, including any work plan or schedule
 2 approved under this Decree, according to all applicable requirements of this Decree and within
 3 the specified time schedules established by or approved under this Decree.

4

5 **Consent Decree Violation**

6 Failure to comply with particulate matter
 7 emission limits in Paragraph 17 after
 8 April 25, 2007

Stipulated Penalty (Per day per violation unless otherwise specified)

\$1,000 for the 1st through 45th day
 \$2,500 for the 45th through 60th day
 \$10,000 for the 61st day and each day beyond

9 Except as provided above, failure to comply
 10 with particulate matter emission limits in
 11 Paragraphs 12 and 17

\$2,500 for the 1st through 14th day
 \$5,000 for the 15th through 30th day
 \$10,000 for the 31st day and each day beyond

12 Failure to comply with 20% opacity limit in
 13 Paragraph 17(b)(i)

\$50,000 per quarter

14 Failure to comply with 40% opacity limit in
 15 Paragraph 17(b)(ii)

\$5,000 for each hour

16 Failure to comply with any compliance
 17 milestone in Paragraph 16 with regard to
 installation, testing, maintenance, and operation
 of an ESP

\$2,500 for the 1st through 14th day
 \$5,000 for the 15th through 30th day
 \$10,000 for the 31st day and each day beyond

18 Failure to comply with any compliance
 19 milestone in Paragraph 18 (a) or (b) with regard
 to installation, operation and certification of
 COMS

\$2,500 for the 1st through 14th day
 \$5,000 for the 15th through 30th day
 \$10,000 for the 31st day and each day beyond

21 Failure to comply with any requirement in
 22 Paragraphs 13 or 14

\$5,000

23 Failure to timely submit Alternative
 24 Monitoring Plan for the SDT spray lance
 system as required by Paragraph 15

\$1,000

25 Failure to comply with any requirement in
 26 Paragraph 19 regarding the Lime Kiln
 quench system

\$1,000

27 Failure to comply with record retention
 28 requirements in Paragraph 20

\$1,000

1	Failure to timely submit SSM plan as required by Paragraph 21	\$1,000
2	Failure to comply with recordkeeping and reporting requirements in Paragraph 22	\$1,000
4	Failure to timely certify to CEMS and COMS requirements as required by Paragraph 23	\$1,000
5	Failure to comply with any reporting requirement in Section V (REPORTING REQUIREMENTS) of this Consent Decree	\$1,000 for the 1 st through 14 th day \$2,500 for the 15 th through 30 th day \$5,000 for the 31 st day and each day beyond
8	Any other violation of this Consent Decree	\$1,000

9 33. Stipulated penalties assessed pursuant to this Section VI (STIPULATED
10 PENALTIES) shall begin to accrue on the day after performance is due or on the day a violation
11 occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily
12 completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for
13 separate violations of this Consent Decree. Except as otherwise provided in this Decree,
14 Defendant shall pay any stipulated penalties within thirty (30) days of receiving the Plaintiffs'
15 written demand.

16 34. Either the United States, ARB or North Coast may seek stipulated penalties under
17 Paragraph 32. Plaintiffs who seek stipulated penalties under Paragraph 32 shall make their
18 written demand therefor jointly. Where more than one of the Plaintiffs seek stipulated penalties
19 for the same violation of this Consent Decree, Defendant shall divide the payment of stipulated
20 penalties equally among the Plaintiffs seeking stipulated penalties, and shall make payment in
21 accordance with the instructions in Paragraphs, 7, 8, and 9 of this Consent Decree.

22 35. The United States, ARB or North Coast may, in the unreviewable exercise of its
23 discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

24 36. Stipulated penalties shall continue to accrue during any dispute resolution
25 conducted pursuant to Section VIII (DISPUTE RESOLUTION), but need not be paid until the
26 following:

27 a. If the dispute is resolved by agreement or by a decision of EPA, ARB and North
28 Coast that is not appealed to the Court, Defendant shall pay accrued penalties determined or

1 agreed to be owing, together with interest, to the Plaintiffs that have demanded stipulated
2 penalties within thirty (30) days of the date of the agreement or decision.

3 b. If the dispute is appealed to the Court and the Plaintiffs prevail in whole or in part,
4 Defendant shall pay all accrued penalties determined by the Court to be owing, together with
5 interest, within sixty (60) days of receiving the Court's decision or order, except as provided in
6 Subparagraph c, below.

7 c. If any party appeals the District Court's decision, Defendant shall pay all accrued
8 penalties determined to be owing, together with interest, within fifteen (15) days of receiving the
9 final appellate court decision.

10 37. Defendant shall pay stipulated penalties in accordance with instructions in
11 Paragraphs 7, 8 and 9 of this Consent Decree as applicable. If Defendant fails to pay stipulated
12 penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on
13 such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due.

14 38. The stipulated penalties provided for in this Consent Decree shall be in addition to
15 any other rights, remedies, or sanctions available to the Plaintiffs for Defendant's violation of
16 this Consent Decree or applicable law. Where a violation of this Decree is also a violation of the
17 Clean Air Act, the Health & Safety Code, or North Coast Rules and Regulations, Defendant shall
18 be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for
19 such violation.

20 **VII. FORCE MAJEURE**

21 39. A "force majeure event" is any event beyond the control of Defendant, its
22 contractors, or any entity controlled by Defendant that delays or prevents the performance of any
23 obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation.
24 "Best efforts" includes anticipating any potential force majeure event and addressing the effects
25 of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any
26 resulting delay to the greatest extent possible. "Force Majeure" does not include Defendant's
27 financial inability to perform any obligation under this Consent Decree. The determination that
28 an event is a force majeure event under this Consent Decree shall not alter or amend any other

1 applicable term, requirement or condition in any permit or federal, state, or local law, rule or
2 regulation (“Applicable Requirements”).

3 40. Defendant shall provide notice to EPA, ARB and North Coast orally or by
4 electronic or facsimile transmission as soon as possible, but not later than 72 hours after the time
5 Defendant first knew of, or by the exercise of due diligence, should have known of, a claimed
6 force majeure event. Defendant shall also provide written notice to EPA, ARB and North Coast
7 within seven (7) days of the time Defendant first knew of, or by the exercise of due diligence,
8 should have known of, the event. The notice shall state the anticipated duration of any delay; its
9 cause(s); Defendant’s past and proposed actions to prevent or minimize any delay; a schedule for
10 carrying out those actions; and Defendant’s rationale for attributing any delay to a force majeure
11 event. Failure to provide oral and written notice as required by this Paragraph shall preclude
12 Defendant from asserting any claim of force majeure.

13 41. If the EPA, ARB and North Coast (the “Agencies”) collectively agree that a force
14 majeure event has occurred, the Agencies may agree to extend the time for Defendant to perform
15 the affected requirements for the time necessary to complete those obligations. An extension of
16 time to perform the obligations affected by a force majeure event shall not, by itself, extend the
17 time to perform any other obligation. Where the Agencies agree to an extension of time, the
18 appropriate modification shall be made pursuant to Section XV (MODIFICATION) of this
19 Consent Decree.

20 42. If the Agencies do not all agree that a force majeure event has occurred, or do not
21 all agree to the extension of time sought by Defendant, it shall be deemed that a force majeure
22 event has not occurred and/or that the extension of time sought by Defendant will not be granted,
23 unless Defendant invokes Dispute Resolution under Section VIII (DISPUTE RESOLUTION) of
24 this Consent Decree. In any such dispute, Defendant bears the burden of proving, by a
25 preponderance of the evidence, that each claimed force majeure event is a force majeure event,
26 that Defendant gave the notice required by Paragraph 40, that the force majeure event caused any
27 delay Defendant claims was attributable to that event, and that Defendant exercised best efforts
28 to prevent or minimize any delay caused by the event.

VIII. DISPUTE RESOLUTION

2 43. Unless otherwise expressly provided for in this Consent Decree, the dispute
3 resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising
4 under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute
5 under this Section shall preclude Defendant from raising any such issue as a defense to an action
6 by the Plaintiffs to enforce any obligation of Defendant arising under this Decree.

7 44. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under
8 this Consent Decree shall first be the subject of informal negotiations. The dispute shall be
9 considered to have arisen when Defendant sends the Agencies a written Notice of Dispute. Such
10 Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations
11 shall not exceed fifteen (15) days from the date the dispute arises, unless that period is modified
12 by written agreement of the Agencies and the Defendant. If the Parties cannot resolve a dispute
13 by informal negotiations, then the position advanced by the Agencies shall be considered binding
14 unless, within twenty (20) days after receiving written notice from any Agency terminating
15 informal negotiations, Defendant invokes formal dispute resolution procedures as set forth
16 below.

17 45. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution
18 procedures, within the time period provided in the preceding Paragraph, by serving on the
19 Agencies a written Statement of Position regarding the matter in dispute. The Statement of
20 Position shall include, but may not necessarily be limited to, any factual data, analysis, or expert
21 opinion supporting Defendant's position and any supporting documentation relied upon by
22 Defendant.

23 46. The Agencies shall serve their Statement of Position within twenty (20) days of
24 receipt of Defendant's Statement of Position. The Agencies' Statement of Position shall include,
25 but may not necessarily be limited to, any factual data, analysis, or opinion supporting that
26 position and any supporting documentation relied upon by the Agencies. The Agencies'
27 Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial
28 review of the dispute in accordance with the following Paragraph.

1 47. Defendant may seek judicial review of the dispute by filing with the Court and
 2 serving on the Plaintiffs, in accordance with Section XII (NOTICES) of this Consent Decree, a
 3 motion requesting judicial resolution of the dispute. The motion must be filed within ten (10)
 4 days of receipt of the Agencies' Statement of Position pursuant to the preceding Paragraph. The
 5 motion shall contain a written statement of Defendant's position on the matter in dispute,
 6 including any supporting factual data, analysis, opinion, or documentation, and shall set forth the
 7 relief requested and any schedule within which the dispute must be resolved for orderly
 8 implementation of the Consent Decree.

9 48. The Plaintiffs shall respond to Defendant's motion within the time period allowed
 10 by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent
 11 permitted by the Local Rules.

12 49. In any dispute brought under Paragraph 47, Defendant shall bear the burden of
 13 demonstrating that its position clearly complies with this Consent Decree and that Defendant is
 14 entitled to relief under applicable law. The Plaintiffs reserve the right to argue that their position
 15 is reviewable only on the administrative record and must be upheld unless arbitrary and
 16 capricious or otherwise not in accordance with law.

17 50. The invocation of dispute resolution procedures under this Section shall not, by
 18 itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent
 19 Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with
 20 respect to the disputed matter shall continue to accrue from the first day of noncompliance, but
 21 payment shall be stayed pending resolution of the dispute as provided in Paragraph 36, above. If
 22 Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid
 23 as provided in Section VI (STIPULATED PENALTIES).

24 IX. INFORMATION COLLECTION AND RETENTION

25 51. The Plaintiffs and their representatives, including attorneys, contractors, and
 26 consultants, shall have the right of entry into the Facility at all reasonable times, upon
 27 presentation of credentials, to:

28 a. monitor the progress of activities required under this Consent Decree;

- 1 b. verify any data or information submitted to the Plaintiffs in accordance with the
2 terms of this Consent Decree;
- 3 c. obtain samples and, upon request, splits of any samples taken by Defendant or its
4 representatives, contractors, or consultants;
- 5 d. obtain documentary evidence, including photographs and similar data; and
- 6 e. assess Defendant's compliance with this Consent Decree.

7 52. Upon request, Defendant shall provide the Agencies or their authorized
8 representatives splits of any samples taken by Defendant. Upon request, the Agencies shall
9 provide Defendant splits of any samples taken by the Agencies.

10 53. Until five (5) years after the termination of the Consent Decree, Defendant shall
11 retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all
12 documents, records, or other information (including documents, records, or other information in
13 electronic form) in its or its contractors' or agents' possession or control, or that come into its or
14 its contractors' or agents' possession or control, and that relates in any manner to Defendant's
15 performance of its obligations under this Consent Decree. This information-retention
16 requirement shall apply regardless of any contrary corporate or institutional policies or
17 procedures. At any time during this information-retention period, the Plaintiffs may request
18 copies of any documents, records, or other information required to be maintained under this
19 Paragraph.

20 54. At the conclusion of the information-retention period provided in the preceding
21 Paragraph, Defendant shall notify Plaintiffs at least ninety (90) days prior to the destruction of
22 any documents, records, or other information subject to the requirements of the preceding
23 Paragraph and, upon request by Plaintiffs, Defendant shall deliver any such documents, records,
24 or other information to Plaintiffs. Defendant may assert that certain documents, records, or other
25 information is privileged under the attorney-client privilege or any other privilege recognized by
26 federal law. If Defendant asserts such a privilege, it shall provide the following for each
27 document, record or information: (1) the title; (2) the date; (3) the name and title of each author;
28 (4) the name and title of each addressee and recipient; (5) a description of the subject; and (6) the

1 privilege asserted by Defendant. However, no documents, records, or other information created
 2 or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of
 3 privilege.

4 55. Defendant may also assert that information required to be provided under this
 5 Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to
 6 any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures
 7 set forth in 40 C.F.R. Part 2.

8 56. This Consent Decree in no way limits or affects any right of entry and inspection,
 9 or any right to obtain information, held by the Plaintiffs pursuant to applicable federal, state or
 10 local laws, regulations, or permits, nor, except as provided in Paragraph 20, does it limit or
 11 affect any duty or obligation of Defendant to maintain documents, records, or other information
 12 imposed by applicable federal, state or local laws, regulations, or permits.

13 X. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

14 57. This Consent Decree resolves (a) the civil claims of the Plaintiffs for the
 15 violations alleged in the Complaint filed in this action through the date of lodging of this
 16 Consent Decree; (b) the civil claims alleged in EPA Finding of Violation (Docket No. R9-05-20),
 17 EPA Finding and Notice of Violation (Docket No. R9-06-05) and EPA Finding of Violation
 18 (Docket No. R9-06-01); (c) the civil claims alleged in North Coast Notices of Noncompliance
 19 NON Nos. 10068, 10209, 10214, 10156, 10462, 10467, 10470, 10471, 10472, 10474, and 11302,
 20 and (d) the civil claims alleged in North Coast's Stipulated Order of Abatement (No. 01-05-06).

21 58. The Plaintiffs reserve all legal and equitable remedies available to enforce the
 22 provisions of this Consent Decree. This Consent Decree shall not be construed to limit the
 23 rights of the Plaintiffs to obtain penalties or injunctive relief under the CAA or implementing
 24 regulations, or under other federal, state or local laws, regulations, or permit conditions, except as
 25 expressly specified in Paragraph 57.

26 59. The terms, requirements and conditions of this Consent Decree are in addition to,
 27 and not in lieu of, any other applicable term, requirement or condition in any permit or federal,
 28 state or local law, rule or regulation ("Applicable Requirement(s)"). Compliance with this

1 Consent Decree does not constitute or excuse compliance with any other Applicable
2 Requirement. Evergreen is responsible apart from this Consent Decree for achieving and
3 maintaining complete compliance with all Applicable Requirements, and Evergreen's
4 compliance with this Consent Decree shall not constitute a defense to any action to enforce any
5 Applicable Requirement. This Consent Decree is not a permit or a modification of any permit.
6 Plaintiffs do not by their consent to entry of this Consent Decree warrant or aver in any manner
7 that compliance with any aspect of this Consent Decree will result in compliance with the CAA
8 or state law. This Consent Decree shall not be construed to prevent or limit the rights of the
9 United States, the State of California or North Coast to obtain penalties or injunctive relief under
10 the CAA or state law except as specified in Paragraph 57.

11 60. Except as otherwise provided by law or determined by a Court of competent
12 jurisdiction, this Consent Decree does not limit or affect the rights of Defendant or of the
13 Plaintiffs against any third parties not party to this Consent Decree, nor does it limit the rights of
14 third parties not party to this Consent Decree against Defendant, except as otherwise provided by
15 law.

16 61. This Consent Decree shall not be construed to create rights in, or grant any cause
17 of action to, any third party not party to this Consent Decree.

XI. COSTS

19 62. The Parties shall bear their own costs of this action, including attorneys' fees,
20 except that the Plaintiffs shall be entitled to collect the costs (including attorneys' fees) incurred
21 in any action necessary to enforce this Consent Decree.

XII. NOTICES

23 63. Unless otherwise specified herein, whenever notifications, submissions, or
24 communications are required by this Consent Decree after the Effective Date, they shall be made
25 in writing and addressed as follows:

26 || To the United States or DOJ:

27 Chief, Environmental Enforcement Section
28 Environment and Natural Resources Division
U.S. Department of Justice

1 Box 7611, Ben Franklin Station
2 Washington, DC 20044-7611
2 Re: DOJ No. 90-5-2-1-08786

3 To EPA:
4 Kara Christenson, ORC-2
4 U.S. Environmental Protection Agency, Region IX
5 75 Hawthorne Street
5 San Francisco, CA 94105
6 e-mail: Christenson.Kara@epa.gov
6 (will accept notification by email)

7
8 Director, Air Division (AIR-1)
8 U.S. Environmental Protection Agency, Region IX
9 75 Hawthorne Street
9 San Francisco, CA 94105
10 Attn: Cyntia Steiner (AIR-5)
10 e-mail: Steiner.Cyntia@epa.gov
10 (will accept notification by email)

11
12 To ARB:

13 James Ryden
14 Chief Compliance Division
14 California Air Resources Board
15 1001 I Street, P.O. Box 2815
15 Sacramento, CA 95812
16 e-mail: jryden@arb.ca.gov

16 with a copy to:

17 George T. Poppic, Jr.
18 Senior Counsel
18 Air Resources Board
19 P.O. Box 2815
19 Sacramento, CA 95812
20 e-mail: gpoppic@arb.ca.gov

21 To North Coast

22 Richard Martin, Jr.
22 Air Pollution Control Officer
23 North Coast Unified Air Pollution Control District
23 2300 Myrtle Avenue
24 Eureka, CA 95501
24 e-mail: rmartin@ncuaqmd.org

25 Nancy Diamond
26 Attorney at Law
26 822 G Street, Suite 3
27 Arcata, CA 95521
27 e-mail: ndiamond@humboldt1.com

1 To Evergreen

2 David Tsang
 3 Chief Executive Officer
 4 Evergreen Pulp, Inc.
 5 1 TCF Drive
 6 Samoa, CA 95564
 7 e-mail: DavidTsang@EvergreenPulp.com
 8 (will accept notification by email)

9 Carol Romero
 10 Manager, Environment and Safety
 11 Evergreen Pulp, Inc.
 12 1 TCF Drive
 13 Samoa, CA 95564
 14 e-mail: CarolRomero@EvergreenPulp.com
 15 (will accept notification by email)

16 David Cooke
 17 Allen Matkins Leck Gamble Mallory & Natsis LLP
 18 Three Embarcadero Center, 12th Floor
 19 San Francisco, CA 94111
 20 e-mail: dcooke@allenmatkins.com
 21 (will accept notification by email)

22 64. Any Party may, by written notice to the other Parties, change its designated notice
 23 recipient or notice address provided above.

24 65. Notices submitted pursuant to this Section shall be deemed submitted upon
 25 mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties.

18 XIII. EFFECTIVE DATE

19 66. The Effective Date of this Consent Decree shall be the date upon which this
 20 Consent Decree is entered by the Court.

21 XIV. RETENTION OF JURISDICTION

22 67. The Court shall retain jurisdiction over this case until termination of this Consent
 23 Decree, for purpose of resolving disputes arising under this Decree or entering orders modifying
 24 this Decree, pursuant to Section VIII (DISPUTE RESOLUTION) and Section XV
 25 (MODIFICATION), or effectuating or enforcing compliance with the terms of this Decree.

26 XV. MODIFICATION

27 68. The terms of this Consent Decree may be modified only by a subsequent written
 28 agreement signed by all the Parties. Where the modification constitutes a material change to any

term of this Decree, it shall be effective only upon approval by the Court.

XVI. TERMINATION

69. After Defendant has maintained continuous satisfactory compliance with this Consent Decree for a period of two (2) years after the Effective Date of this Consent Decree, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendants may serve upon Plaintiffs a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

8 70. Following receipt by the Plaintiffs of Defendant's Request for Termination, the
9 Parties shall confer informally concerning the Request and any disagreement that the Parties may
10 have as to whether Defendant has satisfactorily complied with the requirements for termination
11 of this Consent Decree. If the Plaintiffs agree that the Decree may be terminated, the Parties
12 shall submit, for the Court's approval, a joint stipulation terminating the Decree.

13 71. If the Plaintiffs do not agree that the Decree may be terminated, Defendant may
14 invoke Dispute Resolution under Section VIII (DISPUTE RESOLUTION) of this Decree.
15 However, Defendant shall not seek Dispute Resolution of any dispute regarding termination,
16 under Paragraph 47 of Section VIII (DISPUTE RESOLUTION), until thirty (30) days after
17 service of its Request for Termination.

XVII. PUBLIC PARTICIPATION

19 72. This Consent Decree shall be lodged with the Court for a period of not less than
20 thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The
21 Plaintiffs reserve the right to withdraw or withhold their consent if the comments regarding the
22 Consent Decree disclose facts or considerations indicating that the Consent Decree is
23 inappropriate, improper or inadequate. Defendant consents to entry of this Consent Decree
24 without further notice.

XVIII. SIGNATORIES/SERVICE

26 73. Each undersigned representative of the Parties certifies that he or she is fully
27 authorized to enter into the terms and conditions of this Consent Decree and to execute and
28 legally bind the Party he or she represents to this document.

1 74. This Consent Decree may be signed in counterparts, and its validity shall not be
2 challenged on that basis.

3 75. Defendant agrees not to oppose entry of this Consent Decree by the Court or to
4 challenge any provision of the Decree, unless the Plaintiffs have notified Defendant in writing
5 that they no longer support entry of the Decree.

6 76. Defendant agrees to accept service of process by mail with respect to all matters
7 arising under or relating to this Consent Decree and to waive the formal service requirements set
8 forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of
9 this Court including, but not limited to, service of a summons.

XIX. FINAL JUDGMENT

11 77. Upon approval and entry of this Consent Decree by the Court, this Consent
12 Decree shall constitute a final judgment of the Court as to Plaintiffs and Defendant.

13 | IT IS SO ORDERED:

14

15 || Dated:

United States District Judge

1 FOR PLAINTIFF UNITED STATES OF AMERICA:

2
3 RONALD J. TENPAS
4 Acting Assistant Attorney General
Environment and Natural Resources Division
5

6 Dated: September 25, 2007 By:

7
8 ELLEN MAHAN
9 Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
10

11 Dated: September 28, 2007

12
13 ANN C. HURLEY
14 Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice
301 Howard Street, Suite 1050
San Francisco, CA 94015
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1 FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:
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4

Dated: 9/21/07



WAYNE NASTRI
Regional Administrator
U.S. Environmental Protection Agency, Region 9
San Francisco, CA

Dated: 9/24/07



NANCY MARVEL
Regional Counsel
U.S. Environmental Protection Agency, Region 9
San Francisco, CA

13 OF COUNSEL:

14 Kara Christenson
15 Senior Counsel
16 U.S. Environmental Protection Agency, Region 9
17 75 Hawthorne Street
18 San Francisco, CA 94105

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1 FOR PLAINTIFF CALIFORNIA AIR RESOURCES BOARD:
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6 Dated: 7 Sept '07
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ANITA E. RUUD
Deputy Attorney General
California Office of the Attorney General

12 Dated: _____
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Executive Director
California Air Resources Board

1 FOR PLAINTIFF CALIFORNIA AIR RESOURCES BOARD:
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DATED this 21 day of September, 2007



5 Tom Cackette
6 Acting Executive Officer
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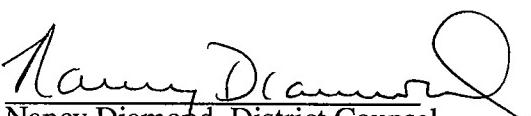
1 FOR PLAINTIFF NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT:
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3
4 Dated: 9/24/07



RICHARD L. MARTIN, JR.
Air Pollution Control Officer
North Coast Unified Air Quality Management
District

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11 Approved as to form:

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15 Nancy Diamond, District Counsel
16 North Coast Unified Air Quality
Management District
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1 FOR DEFENDANT EVERGREEN PULP, INC.:
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3

4 Dated: Sept 11/07

5 Name: 
6 Title: David Tsang
7 Chief Executive Officer

8 Agent for Service of Process:

9 David D. Cooke
10 Allen Matkins Leck Gamble Mallory & Natsis LLP
11 Three Embarcadero Center, 12th Floor
12 San Francisco, CA 94111-4074

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APPENDIX A

NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT
2300 Myrtle Avenue, Eureka, CA 95501
Phone: (707) 443-3093 • Fax: (707) 443-3099



**AUTHORITY TO CONSTRUCT
&
TEMPORARY PERMIT TO OPERATE
PERMIT NO. 000-233-1**

IS HEREBY GRANTED TO:

Evergreen Pulp, Inc.
One TCF Drive
Samoa, CA 95564

Responsible Official: David Tsang, Chief Executive Officer

FOR THE SOURCE LISTED BELOW:

Evergreen Pulp, Inc. (Evergreen) has proposed to modify the air pollution control equipment associated with the Smelt Dissolving Tank (Tank) at the Samoa facility. The Tank is designed to receive smelt from the recovery furnace and combine it with fresh water to regenerate green liquor. The Tank, manufactured by A. Ahlstrom, has a 50,000 gallon capacity and is connected to a Wet Scrubber (WS) type air pollution control device whose purpose is to reduce particulate matter and Total Reduced Sulfur (TRS) emissions. This equipment is currently operating under AQMD Permit to Operate NP-074. This ATC was originally issued on July 14th 2005 and was modified on July 26th 2005.

SUBJECT TO THE FOLLOWING CONDITIONS:

Construction and installation of the equipment must be conducted in compliance with all data and specifications submitted with the application under which this permit is issued unless otherwise specified herein. This is an Authority to Construct Permit and a Temporary Permit to Operate subject to the following conditions.

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 2 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

GENERAL CONDITIONS

1. This Authority to Construct / Temporary Permit to Operate shall be valid from the date of issuance for a period of 170 days not to exceed December 31st 2005.
2. This Authority to Construct permit supercedes all permits previously issued for the smelt dissolver tank and its associated wet scrubber device.
3. Unless specifically stated, for purposes of this permit, the nozzles, lances, instruments, strainers, and ancillary equipment listed in the Authority to Construct application shall be considered to be components of the smelt dissolving tank wet scrubber.
4. This Authority to Construct shall be posted in a conspicuous location at the site and shall be made available to North Coast Unified Air Quality Management District (AQMD) representatives upon request.
5. This Authority to Construct is issued pursuant to California Health and Safety Code Section 42301.1.
6. Knowing and willful misrepresentation of a material fact in the application for the permit, or failure to comply with any condition of the permit or of the AQMD Rules and Regulations, shall be grounds for revocation of this permit.
7. Any violation of any condition of this permit is a violation of AQMD Rules and Regulations, and California State Law.
8. The APCO reserves the right to amend this permit in order to ensure compliance of this operation or to mitigate or abate any public nuisance. Such amendments may include requirements for additional operating conditions, testing, data collection, reporting and other conditions deemed necessary by the APCO to ensure compliance with AQMD rules and Regulations.
9. The Rules, paragraphs, sentences, clauses, and phrases of the permit are severable. If any Rules, paragraphs, sentences, clauses, or phrase referenced should be declared unconstitutional by a valid judgment or decree of a court with competent jurisdiction, such unconstitutionality shall not affect any of the remaining Rules, paragraphs, sentences, clauses, and phrases.
10. This permit is not transferable from either one location to another, from one piece of equipment to another, or from one person to another.
11. This permit is effective only upon payment of fees in accordance with AQMD Rules and Regulations. In the event of facility closure or change of ownership or responsibility, the new owner or operator shall remit fees for the emissions generated or fees for activities unpaid for prior to the aforementioned change in status.

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 3 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

12. The permit and conditions remain in effect in the event of any change in control or ownership of the facility. In the event of any such change in control or ownership of the subject facility, the permittee shall notify the succeeding owner of the permit and conditions and shall notify the AQMD of the change in control or ownership within fifteen (15) days of that change.
13. The "Right of Entry", as delineated in California Health and Safety Code Section 41510 of Division 26, shall apply at all times. Failure to do so may be grounds for permit suspension or revocation.
14. All equipment, if any, regulated by this permit shall at all times be maintained in good working order and be operated as efficiently as possible to ensure compliance with all applicable emission limits.
15. This permit does not convey any property rights of any sort, or any exclusive privilege.
16. The permittee shall submit an application for any changes to the basic or control equipment for any permit unit in this permit. No change shall begin prior to the issuance of a permit.
17. The permittee shall not discharge such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.
18. The permittee shall not discharge into the atmosphere from any source whatsoever any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringlemann Chart, as published by the United States Bureau of Mines; or of such opacity as to obscure an observer's view to a degree equal to or greater than Ringlemann 2 or forty (40) percent opacity.
19. The permittee shall not handle, transport, or store material in such a manner as to allow unnecessary amounts of particulate matter to become airborne and leave the property. Reasonable precautions shall be taken to prevent particulate matter from becoming airborne.
20. The permittee shall not construct, erect, modify, operate, or use any equipment which conceals an air contaminant emission, which would otherwise constitute a violation of the limitations of this permit, unless the operation or use of said equipment results in a significant reduction in the total emission of air contaminants.
21. The permittee shall furnish to the APCO, within a reasonable time, any information that the APCO may request in writing to determine compliance with this permit or whether cause exists for modifying, revoking and reissuing, or terminating this permit. Upon request, the permittee shall also furnish to the APCO copies of records required to be kept by this permit.
22. This permit does not authorize the emission of air contaminants in excess of those allowed by the California Health and Safety Code or the Rules and Regulations of the AQMD. This permit cannot be considered as permission to violate existing laws, ordinances, regulation or

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 4 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

statutes of other governmental agencies. The violation of any of these terms and conditions shall be grounds for revocation of this permit, and shall be a violation of AQMD Rules and Regulations.

23. Permit requirements apply to the facility owner and/or operator(s) *and any contractor or subcontractor* performing any activity authorized under this permit. Any person(s), including contractor(s) and/or subcontractor(s), not in compliance with the applicable permit requirements are in violation of State and local laws and subject to appropriate civil and criminal penalties. The facility owner and/or operator, and all contractor(s) or subcontractor(s) are *liable* for the actions and violations of their employee(s). Any violation committed by a contractor or subcontractor shall be considered a violation by the facility owner and/or operator, and is also a violation by the contractor and/or any subcontractor(s).
24. Upset or breakdown conditions and violations of emission limits set forth in District Rules or conditions of this permit shall be corrected as expeditiously as possible. Such conditions shall be reported as required by AQMD Rule 105.
25. Changes in plans, specifications, and other representations proposed in the application documents shall not be made if they will increase the discharge of emissions or cause a change in the method of control of emissions or in the character of emissions. Any such proposed changes shall be submitted as modification to this permit. No modification shall begin prior to issuance of a permit for such modification.
26. The owner or operator to whom this permit is issued is required to (a) ensure in writing that every and all operating staff, contractors, subcontractors, and employees, are advised and familiar with all conditions contained in this permit prior to allowing any staff, contractors, or employees to operate any equipment or conduct any activities under this permit; and (b) provide annual training for appropriate personnel regarding the terms of this permit. New personnel shall be trained regarding the terms of this permit prior to assignment to a function affected by this permit.
27. The facility shall maintain the permitted equipment in compliance with Federal and State Occupational Safety and Health Administration requirements so as to ensure the health and safety of District representatives performing a site inspection.

OPERATIONAL CONDITIONS

28. The permittee shall operate the smelt dissolving tank only when the Munters structured packing within the wet scrubber is continuously irrigated with a minimum total flow of 445 gallons per minute of weak wash liquid. For purposes of compliance with this condition, total flow to the packing shall be calculated from one hour averages of measurements in gallons per minute, taken at a minimum rate of once every 15 seconds, by total flow meters maintained, calibrated and installed in the liquid supply line to the wet scrubber system and at the inlet to the header to the lance spray curtain. The flow meters shall include displays easily visible for inspection. The scrubber sprays and/or nozzles shall be maintained in optimum working condition. The permittee shall maintain records of the hourly average total flow rate of the weak wash liquid to the wet scrubber at the pulp mill. The foregoing minimum flow requirement shall not apply during periods of (i) Startup and Shutdown, as defined herein, and (ii) acid washes of the Munters structured packing. For purposes of this paragraph and

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 5 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

paragraphs 29(a), 29(b), and 33 of this Permit, the term "Start up" means the period commencing with the firing of black liquor in the recovery boiler and ending when black liquor flow to the boiler exceeds 180 gpm, or 24 hours after commencement, whichever occurs first, and the term "Shutdown" means the period commencing when black liquor flow to the boiler drops below 180 gpm and ends six hours after black liquor flow to the boiler is terminated. The permittee shall maintain records of Startups and Shutdowns as defined herein.

29. (a) The permittee shall operate the smelt dissolving tank only when the lances installed pursuant to this Authority to Construct and Temporary Permit to Operate are continuously supplied with weak wash liquid at a minimum flow rate of 135 gallons per minute. For purposes of compliance with this condition, flow shall be calculated as a one hour average of measurements in gallons per minute, taken at a minimum rate of once every 15 seconds, by a total flow meter maintained, calibrated and installed at the inlet to the header of the lance spray curtain, to accurately indicate the gallons per minute of weak wash liquid to the lance spray curtain. The total flow meter shall include a display easily visible to the operating personnel. The permittee shall maintain records of the hourly average of total flow of the weak wash liquid to the spray lances at the pulp mill. The foregoing minimum flow requirement shall not apply during periods of (i) Startup and Shutdown, (ii) periodic lance replacement as required by this permit or any federal compliance order, and (iii) acid washes of the Munters structured packing.
- (b) The permittee shall operate the smelt dissolving tank only when each spray nozzle on each lance installed pursuant to this Authority to Construct and Temporary Permit to Operate is continuously supplied with weak wash liquid at a minimum pressure of 80 pounds per square inch. Pressure shall be calculated as a one hour average of measurements in pounds per square inch, taken at a minimum rate of once every 15 seconds, by a pressure gauge maintained and installed on each lance. Each pressure gauge shall include a display easily visible to the operating personnel. The permittee shall maintain records of the hourly average pressure of the weak wash liquid to the spray lances at the pulp mill. The foregoing minimum pressure requirement shall not apply during periods of (i) Startup and Shutdown, (ii) periodic lance replacement as required by this permit or any federal compliance order, and (iii) acid washes of the Munters structured packing.
- (c) Prior to issuance of a permit to operate, permittee shall have submitted to the APCO a plan for the monthly inspection and maintenance of the spray nozzles of the lance spray curtain to assure continuous proper operation of the lance spray curtain. The plan shall describe at a minimum: (i) the procedure(s) for spray lance removal and include the requirement that only one spray lance may be out of service at any time, (ii) the procedures(s) for inspection of the spray nozzles in each lance, before and after cleaning, to assure that the critical orifice in each spray nozzle has not been enlarged or damaged, and (iii) how the spray nozzles in each lance will be cleaned. The plan shall also include a discussion of mitigation measures to be employed during the spray lance inspection and cleaning process. Such discussion shall include an analysis of increasing pressure and flow to the spray lances not removed for inspection and cleaning.

Permittee shall advise the APCO at least 24 hrs. in advance of commencement of the initial monthly inspection and maintenance lance replacement so that the APCO may observe the process and procedures to be used by Evergreen. Thereafter, permittee shall notify the APCO within 24 hrs. of performance of a monthly lance replacement and shall permit the APCO to

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 6 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

inspect the removed lances prior to any cleaning or rehabilitation of the removed lances. The APCO shall inspect such lances within 72 hrs.

If, after four months, Evergreen and the APCO agree that no lance shows any build-up or wear and tear that could impair the efficiency of the spray curtain, Evergreen may submit a request for an administrative change to this permit to allow for bi-monthly lance replacement. All other requirements of this provision shall remain in full force and effect.

30. The permittee shall operate the smelt dissolving tank only when the weak wash liquid within the smelt dissolving system wet scrubber is maintained at a pH of not less than 11.5 nor more than 14. For purposes of compliance with this condition, the pH shall be calculated as a one hour average of pH measurements taken at a minimum rate of once every 15 seconds, by a continuous pH meter maintained, calibrated and installed at the inlet to the packing within the wet scrubber. The continuous pH meter shall include a display easily visible for inspection. The permittee shall maintain records of the pH measurements of weak wash at the pulp mill. The foregoing allowable pH range shall not apply during periods of acid washes of the Munters structured packing.
31. The permittee shall only operate the smelt dissolving tank while the Wet Scrubber demisters are cleaned with fresh water for a period of five minutes at a flow rate and pressure as identified by the manufacturer of the Munters Structured Packing after every 8 hours of operation.
32. The permittee shall only operate the smelt dissolving tank while the Wet Scrubber bypass damper is completely closed; except during periods of testing, upset, breakdown or emergency events. Each instance the damper is opened, adjusted, or closed shall be recorded in the facility's breakdown log and reported to the AQMD in accordance with AQMD Rule 105. The permittee shall notify the APCO 72 hours in advance of any planned occasion where the installation of new components may require bypass of the wet scrubber. In such circumstance, the total bypass time is limited to no more than 24 hours in any one 30 day period.
33. The permittee shall operate the smelt dissolving tank only when the static differential pressure drop across the wet scrubber is not more than 1.0 inches of water column. For purposes of compliance with this condition, the static differential pressure drop shall be calculated as a one hour average of pressure drop measurements recorded in inches of water column taken at a minimum rate of once every 15 seconds by a mechanical gauge maintained, calibrated and installed at the wet scrubber with a pressure sensor located above the demister pad and a pressure sensor located prior to the Munters structured packing. The permittee shall maintain records of the static differential pressure drop across the smelt dissolver wet scrubber at the pulp mill. The foregoing maximum pressure drop requirement shall not apply during periods of (a) Startup and Shutdown, and (b) acid washes of the Munters structured packing.
34. The permittee shall:
 - a. (i) Maintain the viewport in the wet scrubber installed in 2005 and check the condition of the Munters structured packing through the viewport once per day, and (ii) Conduct detailed inspection of the condition of the Munters structured packing at each annual scheduled mill shutdown.
 - b. Maintain, and purge once per 12 hour shift, the inline strainers on each spray

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 7 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

lance installed in 2005 pursuant to this Authority to Construct and Temporary Permit to Operate.

c. Maintain and operate the pressure gauges at each lance and the flow indicator at the header to the lances.

35. This paragraph is reserved.

36. Prior to September 15th 2005, the permittee shall prepare and submit an APCO approved detailed preventative maintenance schedule identifying the service life and indicators of performance of all Wet Scrubber components including but not limited to:

- i. Itemization of the indicators of scrubber performance (i.e. minimum PM removal efficiency)
- ii. Itemization of scrubber performance action thresholds where corrective action will be instituted (i.e. pressure drop across scrubber, pressure drop across demisters, temperature, pH, flow rate).
- iii. Identification of specific shift, daily, monthly, and quarterly preventative maintenance actions, including, but not limited to: frequency of inspection, calibration, cleaning/servicing, and replacement of the following:
 - 1. Tank
 - 2. Ducts
 - 3. Packing (if applicable)
 - 4. Demisters (if applicable)
 - 5. Instrumentation
 - 6. Fans
 - 7. Pumps
 - 8. Motor Controls
 - 9. Dampers

EMISSION CONDITIONS

37. This paragraph is reserved.

38. This paragraph is reserved.

39. The permittee shall not discharge from the Wet Scrubber exhaust stack, particulate matter into the atmosphere in excess of 0.20 pounds per ton of black liquor solids (as calculated according to procedure in condition #43 through #45).

40. The permittee shall not discharge from the Wet Scrubber exhaust stack, total reduced sulfur (calculated as H₂S) into the atmosphere in excess of 0.0168 pounds per ton of per ton of black liquor solids (as calculated according to procedure in condition #43 through #45).

41. The permittee shall not discharge emissions into the atmosphere in excess of the limits imposed by condition 18.

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 8 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

42. No fugitive emissions, including but not limited to odorous compounds, shall be emitted into the atmosphere in any quantity that the APCO determines creates a public nuisance.

MONITORING

43.

- a. The permittee shall cause the source testing of the smelt dissolver system not less than once every calendar quarter. The source test shall be performed by personnel certified by the ARB. The source test shall include testing for particulate matter in accordance with CARB Method 5, except (i) cleanup solvent shall be water (not acetone), and (ii) all runs performed during the foregoing source tests shall be referenced in the test report, but only the first three valid runs shall be counted in the run-averaging determination of compliance.. The permittee shall notify the APCO at least 15 days prior to any compliance source test, and a source test plan must be submitted for approval at least 15 days prior to testing. The APCO shall be entitled to observe any such source test and shall receive copies of all data and reports with respect to that source test.
- b. Permittee shall perform source test runs of the smelt dissolver at the system's normal operating rate. Permittee shall determine the system's normal operating rate based on an average of the previous nine months black liquor solids (on a dry basis) production.
- c. Permittee shall also perform source test runs of the smelt dissolver at the system's maximum operating rate. Permittee shall determine the system's maximum operating rate.
- d. The initial source test conducted pursuant to this requirement shall be based upon the operational parameters identified in this Authority to Construct and Temporary Permit to Operate. In the event that the initial source test does not demonstrate compliance with all applicable emissions limitations using the operational parameters set out in this Authority to Construct and Temporary Permit to Operate, permittee shall file an application for modification of this Authority to Construct and Temporary Permit to Operate within 45 days of the initial source test to incorporate operational parameters that would demonstrate such compliance.
- e. Should the results of two consecutive source tests conducted pursuant to this paragraph indicate that emissions from the smelt dissolver are in compliance with applicable emissions limitations, then (i) the one hour averages set forth in those paragraphs shall be changed to three hour averages, and (ii) measurements or calculations required to be made once every 15 seconds shall be required every 15 minutes.
- f. Permittee shall continue to conduct source testing in this manner until permittee demonstrates compliance with all applicable standards for the smelt dissolver system

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 9 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

with two consecutive quarterly source tests. At such time as permittee demonstrates compliance with all applicable standards through two consecutive, valid quarterly source tests, permittee shall no longer be required to source test on a quarterly basis, but shall thereafter be required to source test on a semi-annual basis. Permittee shall continue to conduct source testing in this manner until permittee demonstrates compliance with all applicable standards for the smelt dissolver system with two consecutive semi-annual source tests. At such time as permittee demonstrates compliance with all applicable standards through two consecutive, valid semi-annual source tests, permittee shall no longer be required to source test on a semi-annual basis, but shall thereafter source test on an annual basis.

- g. Permittee may operate the system at a rate not higher than 110% of the maximum operating rate utilized in any test demonstrating compliance within the previous twelve months.
- 44. For purposes of compliance with this permit, Black Liquor Solids firing rate shall be calculated as follows: The actual pounds of black liquor solids which were fired or combusted by the recovery furnace during the time period the corresponding sample was collected.
- 45. The permittee shall contract with a third party to perform all source testing as required by this permit. All source testing shall be performed by CARB certified personnel, laboratory, and firm. The following source testing methods shall be used to determine compliance with emission limitations specified herein:
 - a. Particulate Matter -- as set forth in paragraph 43, above.
 - b. Visible Emissions -- EPA Reference Method 9.
 - c. Total Reduced Sulfur -- EPA Reference Method 16B. Modification of this method to allow the use of alternate types of instrumentation is permissible subject to APCO approval.
- 46. The permittee shall wash the Munters structured packing with an acid bath at least once every 120 days, however, no acid bath shall be performed within thirty days prior to any source test. Within fifteen working days of issuance of this Authority to Construct and temporary Permit to Operate, the permittee shall submit to the APCO a plan describing the acid wash process to be used. Such plan shall include the following information: a) duration of the acid wash process; b) mitigation measures to address possible PM and TRS exceedences during an acid wash process. The permittee shall make and maintain at the pulp mill a written log of each acid wash performed documenting compliance with the requirements of the acid wash plan. Permittee shall advise the APCO at least five working days in advance of permittee performing the first acid bath to allow the APCO to observe the processes and procedures to be used by permittee.
- 47. The permittee shall determine the wet scrubber particulate matter and TRS removal efficiency. The removal efficiency shall be determined by either (a) a methodology using downstream source test data, and upstream gas and particulate estimates based upon AP 42 or (b) a method otherwise approved by the APCO.

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 10 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

48. The permittee shall periodically evaluate Wet Scrubber components identified in the preventative maintenance schedule at the interval designated therein. A log indicating the components operational status and disposition shall be maintained according to condition #49.

RECORDKEEPING CONDITIONS

49. Air monitoring records shall be maintained on site and made available to AQMD personnel immediately upon request. All data, reports, and summaries shall be maintained on site for a period of five years from the date the data was collected.
50. A breakdown log shall be maintained that describes the breakdown, includes the date and time of the breakdown, the cause of the breakdown, corrective measures taken, and the date and time when the breakdown was corrected.

REPORTING CONDITIONS

51. The APCO shall be notified, in writing, upon the startup and completion of the permitted activity.
52. The permittee shall report to the AQMD any deviations from the requirements of this permit, including those attributable to breakdown conditions, the probable cause of the deviations, and any corrective actions or preventive measures taken. Breakdowns shall be reported to the AQMD no later than one (1) hour after detection during normal office hours (9:00 a.m. to 4:00 p.m.), or one hour after the start of the next regular business day, whichever is sooner, and the permittee shall take immediate steps to minimize the impact of the failure.
53. The permittee shall provide information requested by the AQMD for emission inventory purposes within thirty (30) days of receiving the request.
54. Every emissions source test performed during the period of this variance shall be summarized in a written report format and submitted to the Office of the APCO directly from the independent source testing firm and submitted on the same day, the same time, and in the same manner as delivered to the Petitioner.
55. The permittee shall submit the results from the final compliance emissions source test summarized in a written report format to the Office of the APCO directly from the independent source testing firm and submitted on the same day, the same time, and in the same manner as delivered to the Permittee.
56. This paragraph is reserved.
57. The permittee shall submit the following written weekly status reports to the office of the APCO within 15 days following the end of each month:

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 11 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

- a. Progress schedule itemizing the installation of the proposed modifications and source testing schedules;
 - b. Log of itemization of acid wash actions used to "unplug" the Smelt Dissolver Wet Scrubber;
 - c. Production rate log;
 - d. pH Flow rate log;
 - e. Smelt Dissolving Tank temperature log;
 - f. Pre-treatment flow rates in gallons per minute and psi ;
 - g. Log of daily wash cycles of the demisters;
 - h. Log of shift observations through scrubber view ports and inline strainers identifying scale build up; and,
 - i. Log of itemization of all equipment and operations Upset, Breakdown, and malfunctions by date, time and Item. Log of pressure drops across packing and log of pressure drops across demisters.
58. No later than July 28th 2005, the permittee shall perform and submit to the APCO an approved ambient air quality modeling analyses of particulate matter emissions. Analyses shall consider contributions of particulate matter from all facility emission sources and shall model ambient air conditions before and after the proposed modifications have been completed.
59. This paragraph is reserved.
60. No later than August 1st 2005, the permittee shall perform or shall cause the performance of a record search of the NCASI database for information on chemical speciation of PM10 emissions from smelt dissolver tank scrubbers, and re-entrainment of particulate matter from precipitated sodium or calcium scale build up on demisters and / or packing components of smelt dissolver wet scrubbers. Upon receipt of said documents, plans, analyses, the permittee shall immediately forward copies of said records to the APCO.

END

EP3983

Evergreen Pulp, Inc.
Permit No. 000-233-1

Page 12 of 12

Issued 7/14/05
Revised 7-26-05
Revised 1-20-06

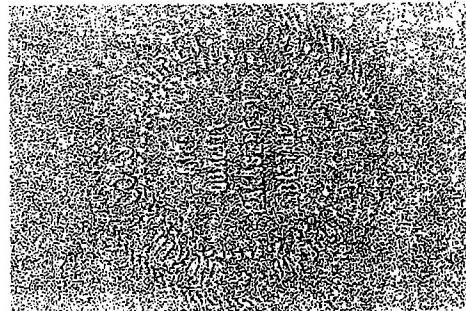
**NORTH COAST UNIFIED
AIR QUALITY
MANAGEMENT DISTRICT**

2300 MYRTLE AVENUE PHONE (707) 443-3093
EUREKA, CALIFORNIA 95501 FAX (707) 443-3099

DATE: 1/20/2006

BY: Simona Altman
Simona Altman
Permit Services Division Manager

for
LAWRENCE D. ODLE
AIR POLLUTION CONTROL OFFICER



Permit Seal

APPENDIX B



NORTH COAST UNIFIED AIR QUALITY MANAGEMENT DISTRICT
2300 Myrtle Avenue, Eureka, CA 95501
Phone: (707) 443.3093 Fax: (707) 443.3099

AUTHORITY TO CONSTRUCT
and
TEMPORARY PERMIT TO OPERATE
NO. 000348-1

COPY

IS HEREBY GRANTED TO:

Permittee: Evergreen Pulp, Inc. - Samoa Pulp Mill

Location: One TCF Drive

Samoa, CA 95564

Responsible Official: David Tsang
Chief Executive Officer

Contact: Carol Romero, Environmental and Safety Manager
One TCF Drive
Samoa, CA 95564
Phone: (707) 269-7553 Fax: (707) 476-4689

Issued Date: 11/08/2006

Issued by: NCUAQMD Air Pollution Control Officer

FOR THE SOURCE LISTED BELOW:

Installation and operation of an Electrostatic Precipitator (ESP) to control particulate matter emissions from the Lime Kiln. Permittee has the option to vent the exhaust from the ESP to the existing venturi scrubber and/or the existing quench system.

SUBJECT TO THE FOLLOWING CONDITIONS:

This is your Authority to Construct permit and Temporary Permit to Operate (hereafter called Permit). This Permit is subject to the following terms and conditions:

**AUTHORITY TO CONSTRUCT
and
TEMPORARY PERMIT TO OPERATE**
Issued November 08, 2006

58. Permittee shall submit the following reports according to Table 4 below.

Table 4

Frequency	Information to be reported
Upon Occurrence	A. Each occasion when the average of 10 consecutive COMS 6-minute averages results in a measurement greater than 20%.
Quarterly	B. Excess emission report if the average of 10 consecutive 6-minute COMS averages results in a measurement greater than 20% opacity pursuant to 40 CFR 63.867. C. Excess emission report consistent with 40 CFR 63.10(c).
Semi-Annually	D. When no parameter exceedances have occurred, Permittee shall submit a semiannual report stating that no excess emissions occurred during the reporting period. E. Permittee shall report all occurrences of excess emissions from the Lime Kiln to the APCO in accordance with the timing requirements of Regulation I, Rule 105.5. F. Report of no excess emissions consistent with 40 CFR 63.10(e) (3) (vi).

OPTIMIZATION TESTS

59. Permittee shall submit, for APCO approval, a test protocol for the optimization tests, identifying the specific tests to be conducted and including the variations in operating parameters no later 30 days prior to the optimization test date.
60. No later than sixty (60) days after initial startup, Permittee shall complete the APCO-approved optimization tests.
61. Based on the results of the optimization tests, Permittee shall submit a written request to the APCO to modify this Permit to incorporate the newly established parametric operating values. The APCO may amend the recordkeeping and reporting requirements as part of any modification.
62. The optimization tests shall be conducted in a manner consistent with 40 CFR 63 Subpart MM.

AUTHORITY TO CONSTRUCT
and
TEMPORARY PERMIT TO OPERATE
Issued November 08, 2006

TESTING AND COMPLIANCE MONITORING CONDITIONS

63. Permittee shall cause an independent party which is CARB certified to conduct source tests of the Lime Kiln exhaust pursuant to the methods identified below. The test report shall be submitted to the APCO no later than ninety (90) days following completion of startup of the ESP.
64. Not less than thirty days prior to the date of any source test required by this Permit, Permittee shall provide the APCO and CARB written notice of the planned date of the test and a copy of the source test protocol. The source test results shall be summarized in a written report and submitted to the APCO and CARB directly from the independent source testing firm on the same day, the same time, and in the same manner as submitted to Permittee.
65. Permittee shall record and include in the final report the following parameters during compliance testing:
 - a. Primary and secondary amperage of the Transformer Rectifier (TR) set
 - b. Primary and secondary voltage of Transformer Rectifier (TR) set
 - c. Spark rate in each ESP field
66. The following methods shall be used to determine compliance with the emissions limitations set forth in this Permit:
 - a. **Particulate Matter - CARB Method 5**
 - i. Permittee shall demonstrate compliance with the NCUAQMD Regulatory limit of 0.20 gr/dscf (corrected to 10% Oxygen) using CARB Method 5.
 - ii. Pursuant to 40 CFR 63.865(b)(1), cleanup solvent shall be de-ionized water.
 - iii. All runs performed during the source tests shall be referenced in the test report, but only the first three valid runs shall be counted in the run-averaging determination of compliance.
 - iv. Permittee shall source test for particulate matter from the Lime Kiln once per calendar year.
 - v. Testing is to be done using normal operating conditions, where normal means: pulp production, TCF > 550 ADSTP/day, UBK >600 ADSTP/day and mud flow to precoats > 210 gpm.
 - b. **Particulate Matter - EPA Method 5**
 - i. Permittee shall demonstrate compliance with the Federal Regulatory limit of 0.064 gr/dscf (corrected to 10% Oxygen) using EPA Method 5.
 - ii. Pursuant to 40 CFR 63.865(b)(1), cleanup solvent shall be de-ionized water.
 - iii. All runs performed during the source tests shall be referenced in the test report, but only the first three valid runs shall be counted in the run-averaging determination of compliance.
 - iv. Permittee shall source test for particulate matter from the Lime Kiln once per calendar year.
 - v. Testing is to be done using normal operating conditions, where normal means: pulp production, TCF > 550 ADSTP/day, UBK >600 ADSTP/day and mud flow to precoats > 210 gpm.